

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION**

FILED
DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION
09 AUG 31 PM 1:33
LAURA A. BRIGGS
CLERK

JAMIE N. LOCKARD
Plaintiff

v.

NO.

**THE CITY OF LAWRENCEBURG, IN,
BRIAN MILLER, in his individual capacity,
DEARBORN COUNTY HOSPITAL,
RONALD C. CHEEK M.D.
Defendants**

4 : 09 -cv- 113 DFH -WGH

COMPLAINT AND DEMAND FOR JURY TRIAL

Introduction

1. On March 13, 2009, Brian Miller, a police officer employed by the City of Lawrenceburg, Indiana, stopped a vehicle operated by Jamie N. Lockard. During an investigation of Mr. Lockard for operating while intoxicated, Officer Miller ordered a forced catheterization of Mr. Lockard at Dearborn County Hospital for the purpose of obtaining a urine sample. The search violated both the United States Constitution and Indiana law and the Plaintiff is entitled to his damages.

Jurisdiction, venue and cause of action

2. This Court has jurisdiction over the Plaintiff's federal claims pursuant to 20 USC § 1331.
3. Venue is proper in this district pursuant to 28 USC § 1391.
4. Plaintiff brings this action pursuant to 42 USC § 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of

the United States.

5. This Court has jurisdiction over Plaintiff's state law claims pursuant to 28 USC § 1367 in that they arise out of a common nucleus of operative fact with the federal claims.

Parties

6. Jamie N. Lockard is an adult resident of Lawrenceburg, Indiana.
7. The City of Lawrenceburg is a municipal corporation located in southeastern Indiana.
8. Dearborn County Hospital is a Hospital located in Lawrenceburg, Indiana and owned by Dearborn County.
9. Ronald C. Cheek M.D. is a physician employed by Dearborn County Hospital.
10. Brian Miller is an adult who, at all relevant times, was employed by the City of Lawrenceburg as a police officer.

Facts

11. Jamie N. Lockard lives in Lawrenceburg, Indiana.
12. On Friday, March 13, 2009 at approximately 10:41 p.m., Jamie N. Lockard was driving westbound on Center Street in Lawrenceburg.
13. At the time Mr. Lockard was driving on Center Street, Defendant, Brian Miller, was employed as a police officer by the City of Lawrenceburg and was driving a marked car owned by the City of Lawrenceburg.
14. Defendant Miller was on duty as a police officer and was in full uniform.
15. Defendant Miller conducted a traffic stop of Mr. Lockard for allegedly failing to stop at a stop sign at the corner of Center Street and Arch Street.

16. Upon approaching the vehicle, Officer Miller alleged he smelled the odor of an alcoholic beverage and began an operating while intoxicated investigation.
17. Prior to the traffic stop, there had been no accident or report of accident or injury or report of injury involving Mr. Lockard or his vehicle.
18. Officer Miller gave Mr. Lockard a portable breath test. The result of which was a reading of 0.07 percent.
19. During the course of the investigation, Officer Miller determined that Mr. Lockard takes the prescription medication Xanax.
20. Officer Miller applied for a search warrant and submitted with the warrant request a pre-printed form prepared and commonly used by the Lawrenceburg Police Department requesting the judge authorize the Lawrenceburg Police Department to obtain a blood and urine sample.
21. Officer Miller obtained a search warrant, signed by Magistrate Kimberly Schmaltz, authorizing and ordering him to obtain a blood and urine sample from Jamie N. Lockard.
22. The search warrant did not authorize the urine sample to be obtained by force.
23. Officer Miller transported Mr. Lockard to Dearborn County Hospital.
24. Mr. Lockard's blood was drawn at the hospital at approximately 1:05 AM on March 14, 2009.
25. Despite having a blood sample, Officer Miller demanded that Mr. Lockard provide a urine sample.
26. Mr. Lockard was unable to provide a urine sample.

27. Officer Miller ordered Dearborn County Hospital personnel to forcibly obtain a urine sample.
28. Unknown persons restrained Mr. Lockard and an employee of Dearborn County Hospital forced a catheter into his penis in order to obtain a urine sample at approximately 1:35 AM.
29. Ronald C. Cheek M.D. authorized the forced catheterization.
30. The test of the blood sample was completed at 2:00 AM and revealed Mr. Lockard was under the legal limit for operating a motor vehicle.
31. Mr. Lockard was charged Obstruction of Justice, a Class D Felony, for refusing to consent or cooperate in the catheterization.
32. The catheterization was done without Mr. Lockard's consent. Officer Miller wrote in the charging information, "He refused to voluntarily give a urine sample."
33. Mr. Lockard suffered extreme pain and humiliation by the unlawful actions of Defendants.
34. At all times, Defendants acted under color of state law.

Jury trial demand

35. Plaintiff requests a trial by jury on all claims so triable.

Claim for relief

36. The actions of Defendants as specified above violated the Fourth Amendment and rights of Plaintiff Lockard and caused him damage for which Defendants, Miller, the City of Lawrenceburg, Dearborn County Hospital and Ronald C. Cheek are liable.

37. The actions of as specified above violated the Eighth Amendment rights of Plaintiff Lockard subjecting him to cruel and unusual punishment for which Defendants, Miller, the City of Lawrenceburg, Dearborn County Hospital and Ronald C. Cheek are liable.

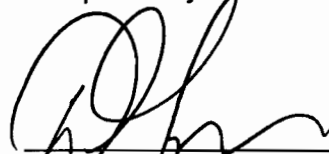
38. The above events subjected Plaintiff Lockard to torts including battery, false imprisonment, intentional infliction of emotional distress and invasion of privacy, for which Defendants, Miller, the City of Lawrenceburg, Dearborn County Hospital and Ronald C. Cheek are liable.

Request for relief

WHEREFORE, Plaintiff requests that this Court:

- a. Accept jurisdiction of this cause and set it for hearing.
- b. Award Plaintiff his damages for violation of his rights as specified above.
- c. Award Plaintiff his costs and reasonable attorney's fees pursuant to 42 USC § 1988.
- d. Award all other proper relief.

Respectfully submitted,



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